

Notice of Oral *Ex Parte* Presentation

October 28, 2002

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338;
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98;
Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147;
Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, CC Docket No. 02-33; and
Appropriate Regulatory Treatment for Broadband Access to the Internet over Cable Facilities, CS Docket No. 02-52

Dear Ms. Dortch:

On Friday, October 25, on behalf of the High Tech Broadband Coalition (HTBC), Veronica O'Connell of the Consumer Electronics Association; Peter Pitsch of Intel; Derek Khlopin and Grant Seiffert of Telecommunications Industry Association; David Peyton of the National Association of Manufacturers; Paul Kenefick of Alcatel; Tim Regan of Corning; and the undersigned met with Dan Gonzalez, Senior Legal Advisor to Commissioner Kevin J. Martin.

In the course of the discussion, the HTBC representatives made several points that are set out in further detail in the HTBC pleadings filed in the above-referenced Commission proceedings involving broadband deployment. Among other things, the HTBC representatives stated:

- The High Tech Broadband Coalition (HTBC) represents the leading trade associations (BSA, CEA, ITI, NAM, SIA, and TIA) of the computer, telecommunications equipment, semiconductor, consumer electronic, software and manufacturing sectors. Carriers are not represented in the HTBC.
- HTBC is unique -- a coalition of trade associations representing over 15,000 companies that participate in the non-carrier broadband "value chain."
- HTBC is committed to the achievement of rapid and ubiquitous deployment of fast interactive, content-rich and affordable broadband services.

- HTBC believes that the best way to reach universal adoption of broadband is strong facilities-based broadband competition among cable modem, wireline broadband (xDSL/fiber), satellite, fixed and wireless alternatives.
- The HTBC believes that the Commission should strive to achieve a minimal regulatory environment that encourages all companies to make the costly and economically risky investments in last mile broadband facilities we need in order to realize the full benefits of the Internet.
- Specifically, HTBC believes that the Commission should refrain from imposing unbundling obligations on new, last mile broadband facilities, including fiber and DSL and successor electronics deployed on the customer side of the central office.
- On the other hand, competitive entrants should continue to have access to core copper loops and be able to collocate their equipment in ILEC central offices.
- Minimizing the unbundling obligations for new and upgraded facilities will reward those who take the risk of investing and thereby promote facilities-based competition and deployment.
- A ruling this year on broadband unbundling reform should be the Commission's top priority – meaningful reform would boost not just the telecom service industry but also hardware and software manufacturers.
- Carriers' capital budgets for 2003 are being finalized this fall and the majority of capital spending occurs in the first half of the year (to realize the maximum revenue in 2003 from this investment). If the Commission fails to act promptly and decisively prior to the end of the year, the Commission's actions in addressing these critical issues will not be translated into orders for new equipment until 2004, which would have significantly detrimental impacts on the telecom hardware and software vendors – they would not see significant increase in their revenue streams until 2005 or 2006.
- DSL services already face substantial competition from the market-leading cable modem service and emerging satellite and wireless broadband services.
- The record in this proceeding provides the Commission with the basis and authority to act expeditiously under the precedent of both the *USTA* court decision and the Commission's own *UNE Remand Order*.
- The "line sharing" portion of the *USTA* decision requires the Commission to consider intermodal competition as it applies the statutory standard for unbundling (that is, the "impair" standard in Section 251). This is the consumer-welfare enhancing standard.
- This approach is consistent with the approach articulated by the Chairman and other Commissioners and set forth in the FCC's various broadband proceedings.
- Given recent Supreme Court and DC Circuit Court decisions, the FCC continues to have broad authority to implement its statutory authority.
- The HTBC also believes that the FCC has authority to ensure that states do not enact regulations inconsistent with creation of a national broadband policy.
- HTBC endorses the classification of wireline and cable broadband services as "information services" subject only to minimal regulation.
- The FCC should, however, monitor the marketplace for broadband services in order to guard against abuses of a core set of consumer "connectivity principles."

HTBC

CC Dockets Nos. 01-338, 96-98, 98-147, 02-33, CS Docket No. 02-52

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Pursuant to Section 1.1206 of the Commission's Rules, 47 C.F.R. § 1.1206, a copy of this submission is being provided to each member of the Commission staff present at the meeting. Please contact the undersigned with any questions in connection with this filing.

Respectfully submitted,

/s/ Douglas C. Cooper

Douglas C. Cooper
Catena Networks
Director, Regulatory and Market
Development

cc:

Dan Gonzalez